

Kenneth H. Brown (CA Bar No. 100396)
Miriam Manning (CA Bar No. 178584)
PACHULSKI STANG ZIEHL & JONES LLP
150 California Street, 15th Floor
San Francisco, California 94111-4500
Telephone: 415.263.7000
Facsimile: 415.263.7010
Email: kbrown@pszjlaw.com
mmanning@pszjlaw.com

Counsel to E. Lynn Schoenmann,
Chapter 7 Trustee

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

MARIYA SERGEEVNA RUCHKA

Debtor.

Case No.: 18-30002 (DM)

Chapter 7

**NOTICE OF TRUSTEE'S MOTION FOR
(I) ORDER APPROVING SALE OF
LAGUNA PROPERTY FREE AND
CLEAR OF LIENS, SUBJECT TO
OVERBID; AND (II) APPROVING
OVERBID PROCEDURES**

B.L.R. 6004-1 Disclosure:¹

*Premier Executive Lending LLC
*George Washington Lending Corporation
*Evergreen Advantage LLC
*Oleg Morozov/ Remus Contractors Inc
* San Francisco Dept. of Public Health
Environment Health, Solid Waste Program
* San Francisco Water, Power and Sewer
Customer Services

Hearing Date:

Date: May 31, 2019

Time: 10:30 a.m.

Place: U.S. Bankruptcy Court
450 Golden Gate Ave., 16th Fl.
San Francisco, Courtroom 17

Judge: Honorable Dennis Montali

¹ This list is for notice purposes only and is not an admission that the parties listed have valid liens on the Laguna Property being sold. The Trustee expressly reserves all rights to contest the priority, extent and validity of any liens asserted against the Laguna Property.

1 **TO: THE DEBTOR; UNITED STATES TRUSTEE; PREMIER EXECUTIVE LENDING**
2 **LLC, GEORGE WASHINGTON LENDING CORPORATION, EVERGREEN**
3 **ADVANTAGE LLC, OLEG MOROZOV/REMUS CONTRACTORS, INC., SAN**
4 **FRANCISCO DEPT. OF PUBLIC HEALTH, SAN FRANCISCO WATER, POWER AND**
5 **SEWER CUSTOMER SERVICES, AND ALL OTHER CREDITORS AND OTHER**
6 **PARTIES IN INTEREST:**

7 **PLEASE TAKE NOTICE**, hereby given, that E. Lynn Schoenmann, trustee (“Trustee”) of
8 the above-captioned chapter 7 estate of Mariya Ruchka, debtor herein (“Debtor”), intends to sell the
9 real property of the estate commonly known as 1619 Laguna Street, San Francisco California (the
10 “Laguna Property”) to Home Sweet Home Realty and Funding Inc. (the Debtor’s wholly owned
11 company) and Tatyana Zaytseva (collectively, the “Buyers”) for \$2.3 million dollars, or to such
12 approved overbidder, free and clear of the liens asserted by Premier Executive Lending LLC, George
13 Washington Lending Corporation, Evergreen Advantage LLC, Oleg Morozov/ Remus Contractors
14 Inc., San Francisco Dept. of Public Health Environment Health, Solid Waste Program, San
15 Francisco Water, Power and Sewer Customer Services pursuant to 11 U.S.C. Sections 363(b)(1) and
16 (f).

17 Concurrently with the filing of this Notice, the Trustee is filing a motion, a memorandum of
18 points and authorities, and declaration in support of her motion to sell the Laguna Property. Any
19 interested party may review these documents by requesting a copy from the Trustee’s counsel,
20 Miriam Manning, at the address and telephone above, or by accessing the Court’s docket through
21 PACER.

22 **The Laguna Property.**

23 Property of the bankruptcy estate includes a mixed use two-story building located at 1619
24 Laguna Street in San Francisco (the “Laguna Property”). The upstairs consists of a 4 bedroom, 3
25 bath residence which had been previously occupied by the Debtor. The downstairs portion of the
26 building consists of a commercial space, a portion of which is currently used as a residence by a
27 tenant, with the remainder used by the Debtor.

28 Evergreen Advantage LLC (“Evergreen”) is believed to hold the senior secured deed of trust
against the Laguna Property securing a promissory note in the principal amount of \$1.7 million.
Evergreen claims that it is currently owed over \$2.4 million on account of its secured promissory
note. In February 2019, the Trustee after receiving no offers for the Laguna Property after many
months of marketing, agreed to provide Evergreen with relief from the automatic stay. Evergreen
has scheduled a foreclosure sale of the Laguna Property but has agreed to continue the foreclosure to
allow the Trustee to negotiate with the Debtor and an investor for their purchase of the Laguna
Property.

29 **The Purchase Offer, Subject to Overbid**

30 The Trustee has received an offer from Home Sweet Home Realty and Funding, Inc. (the
31 Debtor’s wholly owned company) and Tatyana Zaytseva (collectively, the “Buyers”) for \$2.3
32 million dollars, subject to the overbid, on an AS-IS basis and on other terms and conditions as set
33 forth in the San Francisco Purchase Agreement and related addenda.

1 Evergreen has consented to the proposed sale at \$2.3 million, subject to overbid, and has
2 agreed to subordinate its lien in favor of the estate in the amount of \$100,000 (the "Carve Out") to
3 allow the Trustee to receive the Carve Out through escrow at closing. The proposed sale is therefore
4 a 'short sale' in that Evergreen will not receive payment in full on account of its lien and no
5 distributions will be made to the holders of liens junior to that of Evergreen.

6 The Trustee believes that the sale of the Laguna Property to the Buyers for \$2.3 million,
7 subject to overbid, free and clear of liens is fair and reasonable and in the best interest of the
8 Debtor's estate and should be approved.

9 From the sale proceeds, the Trustee proposes to pay the following: (1) unpaid real property
10 taxes due to the City and County of San Francisco, which the Trustee believes will be approximately
11 \$88,000; (2) transfer taxes in the approximate amount of \$17,000; (3) other reasonable costs of sale
12 (except broker's commissions which are not applicable to this sale); (4) the Carve Out to the estate;
13 and (4) Evergreen, who shall receive the balance of the sale proceeds.

14 **PLEASE TAKE FURTHER NOTICE** that a hearing on the Trustee's motion is scheduled
15 for **May 31, 2019 at 10:30 a.m.** in the Courtroom of the Honorable Dennis Montali, 450 Golden
16 Gate Ave., San Francisco, 16th Floor, Courtroom 17.

17 **PLEASE TAKE FURTHER NOTICE**, hereby given, that local rule 9014-1 of the United
18 States Bankruptcy Court for the Northern District of California prescribes the procedures to be
19 followed in the event that a creditor or other party-in-interest wishes to object to the sale described
20 herein. Any party who opposes the sale motion must file such opposition with the above-captioned
21 Court and serve upon Trustee's counsel of record, at the address indicated herein, at least seven (7)
22 days before the actual scheduled hearing date, which with regard to this motion, would mean no later
23 than May 24, 2019. Any opposition by lienholders -- Premier Executive Lending LLC, George
24 Washington Lending Corporation, Evergreen Advantage LLC, Oleg Morozov/ Remus Contractors
25 Inc., San Francisco Dept. of Public Health Environment Health, Solid Waste Program and San
26 Francisco Water, Power and Sewer Customer Services - is due no later than May 17, 2019.

27 **OVERBID PROCEDURE**

28 1. The Trustee's sale of the Laguna Property is subject to overbid. Anyone interested in
purchasing the Laguna Property must submit a written overbid (an offer) and provide verified
financial information evidencing their ability to perform on the sale contract, including the source of
funding for the purchase price, along with a deposit in an amount of no less than \$64,500.
Overbidders may risk losing all or a portion of their deposit if they are the Winning Bidder (defined
below) but fail to close the sale. The deposit must be paid by a cashier's check made payable to "E.
Lynn Schoenmann, Trustee" and must be remitted, with the written overbid and financial
information to the Trustee's counsel, Miriam Manning of Pachulski Stang Ziehl & Jones at 150
California Street, 15th Floor, San Francisco, California 94111 no later than **May 28, 2019 at 5:00
p.m.**

2. Overbids must be in the minimum amount of \$2,330,000, plus 2.5% real estate
commission (for a minimum overbid amount of \$2,388,250), without any contingencies. The
written overbid must specifically also state that: (i) the Laguna Property is being sold in its "as-is"
basis, with no warranties of any kind and subject to all existing leases and tenancy occupancy, with
the buyers assuming all liability for the tenant's claims; and (ii) the sale shall be subject to

1 Bankruptcy Court approval and all disputes regarding the sale shall be adjudicated by the
2 Bankruptcy Court.

3 3. Any sale to any overbidder will be on the same terms as the Purchase Agreement with
4 the Buyers, except that the minimum purchase price must be \$2,388,250 or greater.

5 4. If any prospective overbidder desires to inspect the Laguna Property prior to
6 submission of an overbid or wants to obtain a form of offer for the overbid, they should contact the
7 Trustee's counsel, Miriam Manning at 415-263-7000. If any overbids and deposits are timely
8 submitted, along with financial information evidencing the overbidder's ability to close the sale, the
9 Trustee will conduct an auction on **May 30, 2019 at 2:00 p.m.**, either telephonically or at the
10 Trustee's counsel's office. Any overbidder who submits a timely, written overbid and provides the
11 Trustee's counsel with the required deposit, and financial information evidencing his or her ability to
12 close the sale, must participate in the overbid proceeding where bidding for the sale of the Laguna
13 Property will begin with the amount of the highest, written, timely submitted overbid. The
14 overbidding procedure will be conducted in minimum bid increments of \$5,000.

15 5. The Trustee will select the bid, or combination of bids, at the conclusion of the
16 auction that the Trustee believes to be the highest or best value for the Laguna Property (the
17 "Winning Bidder"). The Trustee reserves the right to select the best bid, even if not the highest bid.
18 The Winning Bidder must complete and sign all agreements or other documents with the Trustee
19 evidencing and containing the terms and conditions on which the winning bid was made before the
20 auction is concluded. If a Winning Bidder fails to consummate the purchase of the Laguna Property,
21 the Winning Bidder's deposit may be forfeited to the Trustee, and the Trustee specifically reserves
22 the right to seek all available damages from the defaulting bidder.

23 6. In the event the Winning Bidder is different from the Buyers identified in this
24 Motion, the Trustee shall ascertain whether the Winning Bidder is an insider of the Debtor, whether
25 the sale represents an arms-length transaction between the parties, made without fraud or collusion,
26 and whether there has been any attempt by either party to take any unfair advantage of the other such
27 that the Winning Bidder may be deemed to be purchasing the Laguna Property in good faith pursuant
28 to 11 U.S.C. § 363(m). The Trustee may seek to obtain these factual findings in any order approving
the Motion that is submitted to the Court. The Court may, in its discretion, hold a separate hearing to
make the findings required to approve the sale pursuant to § 363(m).

7. The Trustee reserves the right to: (1) impose, at or before the auction, additional
terms and conditions on the sale of the Laguna Property; (2) extend the deadlines from those set
forth herein, adjourn the auction at the auction; (3) withdraw the Laguna Property, from sale at any
time before or during the auction, and to make subsequent attempts to market the same; and (4)
reject all bids if, in the Trustee's sole and reasonable judgment, no bid is for a fair and adequate
price.

Dated: May 3, 2019

PACHULSKI STANG ZIEHL & JONES LLP

By: /s/ Miriam Manning

Miriam Manning
Counsel to E. Lynn Schoenmann,
Chapter 7 Trustee